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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,344	09/10/2003	Darin Barri	MAT 3H5	5151

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EXAMINER	
CEGIELNIK, URSZULA M	

ART UNIT	PAPER NUMBER
3711	

MAIL DATE	DELIVERY MODE
12/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/660,344	BARRI ET AL.	
	Examiner	Art Unit	
	Urszula M. Cegielnik	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 October 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *33-52* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *33-52* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 33-41, and 43-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smirnov US Patent Publication No. 2001/0041496) in view of Cutler (US Patent No. 5,460,039)

Smirnov discloses a toy comprising a breath sensor (paragraph 0077, lines 1-3); an output device (paragraph 0033, lines 1-3); the breath sensor inherently has an electrical characteristic in order to operate in conjunction with the processor; and a processor (21) operatively coupled to the breath sensor (paragraph 0077, lines 1-7) and to the output device (paragraph 0033, lines 1-3) wherein the processor (21) is adapted to cause the toy to interact with a user (paragraph 0045, lines 1-12); the processor (21) is further adapted to cause the toy to exhibit a behavior in response to user input (paragraph 0048, lines 1-10); the processor is capable of comparing electrical characteristics of sensors, since digital communication makes use of electrical signals; the processor (21) is further adapted to cause the toy to elicit behavior in a user and detect the behavior (paragraph 0048, lines 1-10); the breath sensor includes a humidity sensor (paragraph 0077, lines 1-3); a reference sensor (*paragraph 0077, lines 3-5, providing a corresponding sensor connected to a processor; since the corresponding*

sensor is connected to a processor [which stores digital values] it is inherently capable of detecting an ambient value); the reference sensor inherently has an electrical characteristic in order to operate in conjunction with the processor; the breath sensor includes a temperature sensor (5), and the toy is a stuffed figure (*e.g. a teddy bear*); a musical toy (the toy is musical in that songs can be sung) and the at least one transducer produces a musical tone (paragraph 0080, lines 1-3).

Smirnov does not disclose the humidity sensor having the claimed arrangement.

Cutler teaches a humidity sensor being configured to detect the presence of breath proximate to the first location (the sensor is capable of detecting breath at a first location) by detecting the value of one of humidity and temperature proximate to the body, the breath sensor being configured to generate an electrical characteristic relative to the value detected by the breath sensor; a reference sensor, the reference sensor being coupled to the body at a second location (the reference sensor is capable of being coupled to the body at a second location), the second location being spaced apart from the first location, the reference sensor in the second location being protected from any breath to which the breath sensor at the first location is exposed, the reference sensor being configured to detect the value of one of humidity and temperature proximate to the body and to generate its own electrical characteristic relative to the value detected by the reference sensor.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the sensor arrangement as taught by Cutler, since such a modification would provide an alternate sensor arrangement/

Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smirnov in view of Cutler and further in view of Cook et al. (US Patent No. 3,721,039).

The modified invention of Smirnov lacks the body having at least two channels.

Cook teaches a doll that has two channels that resemble a musical instrument (i.e. an accordion).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide two channels as taught by Cook et al., since such a modification would provide an alternate interactive feature.

Claim 49-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smirnov US Patent Publication No. 2001/0041496) in view of Cutler (US Patent No. 5,460,039) and Horchler (US Patent Application Publication No. 2003/0162161).

Smirnov discloses a toy comprising a breath sensor (paragraph 0077, lines 1-3); an output device (paragraph 0033, lines 1-3); the breath sensor inherently has an electrical characteristic in order to operate in conjunction with the processor; and a processor (21) operatively coupled to the breath sensor (paragraph 0077, lines 1-7) and to the output device (paragraph 0033, lines 1-3) wherein the processor (21) is adapted to cause the toy to interact with a user (paragraph 0045, lines 1-12); the processor (21) is further adapted to cause the toy to exhibit a behavior in response to user input (paragraph 0048, lines 1-10); the processor is capable of comparing electrical characteristics of sensors, since digital communication makes use of electrical signals; the processor (21) is further adapted to cause the toy to elicit behavior in a user and detect the behavior (paragraph 0048, lines 1-10); the breath sensor includes a humidity

sensor (paragraph 0077, lines 1-3); a reference sensor (*paragraph 0077, lines 3-5, providing a corresponding sensor connected to a processor; since the corresponding sensor is connected to a processor [which stores digital values] it is inherently capable of detecting an ambient value*); the reference sensor inherently has an electrical characteristic in order to operate in conjunction with the processor; the breath sensor includes a temperature sensor (5), and the toy is a stuffed figure (*e.g. a teddy bear*); a musical toy (the toy is musical in that songs can be sung) and the at least one transducer produces a musical tone (paragraph 0080, lines 1-3).

Smirnov does not disclose a reference sensor and generating an electrical characteristic relative to a value detected by the humidity sensor; a plurality of channels.

Cutler teaches a humidity sensor being configured to detect the presence of breath proximate to the first location (the sensor is capable of detecting breath at a first location) by detecting the value of one of humidity and temperature proximate to the body, the breath sensor being configured to generate an electrical characteristic relative to the value detected by the breath sensor; a reference sensor, the reference sensor being coupled to the body at a second location (the reference sensor is capable of being coupled to the body at a second location), the second location being spaced apart from the first location, the reference sensor in the second location being protected from any breath to which the breath sensor at the first location is exposed, the reference sensor being configured to detect the value of one of humidity and temperature proximate to the body and to generate its own electrical characteristic relative to the value detected by the reference sensor.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the sensor arrangement as taught by Cutler, since such a modification would provide an alternate sensor arrangement.

Horchler teaches a toy having a plurality of channels (40) with a sensor (50) disposed therein.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a plurality of channels as taught by Horchler, since such a modifiocation would allow sensing in different regions of the toy.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 571-272-4420. The examiner can normally be reached on Monday through Friday, from 5:45AM-2:15PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene L. Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

umc

EUGENE KIM
SUPERVISORY PATENT EXAMINER